

REQUEST FOR PROPOSAL

COUNTY OF FRESNO

Master Plan Study for A New Juvenile Detention Center

Fresno, California

SUBMITTAL: Six (6) copies must be received on or before:
Tuesday, December 19, 2000, 5:00 p.m.

Addressed to: Edward R. Gaylord, Design Engineer

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2220 Tulare Street, Suite 600
Fresno, CA 93721

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2220 Tulare Street, Suite 720
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Mark Envelope: **"PROPOSAL – New Juvenile Detention Center"**

PROPOSALS RECEIVED AFTER THE TIME AND DATE STATED ABOVE SHALL BE
RETURNED UNOPENED TO THE PROPOSER.

INQUIRIES:

Direct questions or clarifications of the Request For Proposal (RFP) documents to Edward R. Gaylord, Design Engineer, at (559) 262-4109, or fax (559) 262-4879, Department of Public Works.

CONSULTANT SELECTION POLICY:

Copies of the Fresno County Board of Supervisors Resolution 90-028 (Ordinance Code Chapter 4.10) which establishes procedures that implement the selection of Architects, Engineers, and other Professionals, may be obtained from Junso Ogawa, Staff Analyst – Capital Projects (559) 262-4386, Department of Public Works.

Issuance Date: November 17, 2000

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EXHIBITS

EXHIBIT 1	LIST OF DEPARTMENTS AND FUNCTIONAL UNITS ANTICIPATED TO BE INCLUDED AT THE NEW FACILITY
EXHIBIT 2	STUDY'S DELIVERY TIMELINE
EXHIBIT 3	SAMPLE CONSULTANT SERVICES AGREEMENT
EXHIBIT 4	ARTICLE 4 OF THE 1999 FRESNO COUNTY JUSTICE SYSTEM MASTER PLAN, TO BE PROVIDED TO SHORT-LISTED FIRMS (THE QUALIFIED CONSULTANTS).

I. SUMMARY

A. INTRODUCTION AND PROJECT OVERVIEW:

Fresno County seeks to retain the services of a qualified Criminal Justice planning team, to develop a master plan study and master schematic design for a new Juvenile Detention Center and prepare a detailed cost estimate of the facility and its related phasing as may be determined. The proposed new project will culminate in a master schematic plan development that will meet current needs, as well as incorporate the projected future needs of the juvenile detention system to the year 2017. The overall goal for this detention center is to structure a facility that will efficiently and cost effectively expand to meet the needs of Fresno County for the next fifty years. The final work product of the master schematic design phase will become the property of the County and be used in planning of subsequent development phasing by the County.

After Consultant's completion of the Master Plan, the County, at its option and after negotiation, may extend the Contract to provide for Consultant's performance of additional services in a two staged approach for a construction project scope identified in the initial Master Plan / Schematic Design as Phase 1 Construction. The initial stage of Consultant's work under the Contract, as extended, will include the preparation of the Phase 1 Construction design development document package of plans, specifications, and detailed cost estimate. The initial stage under the extended contract also includes the Consultant's assistance in the preparation of future grant application materials to be used to compete for grants administered through the State Board of Corrections. The Consultant may then be authorized, as the second stage of the extended Contract, to complete the subsequent phases (construction documents, bidding, construction observation, post construction) of the County's typical Design Services Contract for the Phase 1 Construction scope of work.

Fresno County operates its Juvenile Detention program at two existing facilities. The facility at Tenth Street houses a BOC rated capacity of 265 beds, detention support and juvenile court activities, and the probation post-care and custodial monitoring functions. A second post-adjudicated facility in Caruthers has a BOC rated capacity of 200 beds. The Board of Supervisors has directed that the Elkhorn facility be used for rehabilitation programs.

Currently, Fresno County is interested in a center that will bring to one location the interdependent departments involved in the delivery of the pre- and post-adjudicated juvenile justice and detention system activities, plus house pre- and post-adjudicated youths. The center must be inclusive in the service delivery approach with the initial emphasis on providing additional beds. It must also incorporate all functions of the detention process from initial custody through post-adjudication and custodial monitoring activities. The estimated housing need for both pre- and post-adjudicated beds is currently projected at 1,364 by the year

2017. Part of the process in creating the master plan will include working with the various departments involved to ensure that their needs, as best as possible, are incorporated into the master plan. The center will be developed in phases; thereby a well thought out master plan will be critical.

The team will be responsible for reviewing the current needs assessment and validating its results, creating a master plan, developing schematics, producing an outline of specifications for the first phase of development, and submitting a detailed estimate of probable cost for the center. The final work product will become the property of Fresno County and may be used as the basis for future grants and project development.

B. REQUIRED CONSULTANT SERVICES

The Consultant shall provide or retain sub-consultants for the following specialties at his own expense to provide technical assistance necessary in developing components of the work to current day code standards and program requirements.

1. Civil and Traffic Control Engineering
2. Waste and Water Systems Engineering
3. Structural Engineering
4. Mechanical, Plumbing and Fire Protection Engineering
5. Electrical Engineering
6. Security Electronic/Audio Visual and Other Low Voltage Systems Engineering
7. Justice System Space Planning
8. Cost Estimating
9. Architectural Illustrator
10. Land Planning
11. Site Analysis

The Consultant shall retain the following specialty consultants that will take direction from Fresno County's staff. Their expenses shall be treated as an extra service.

1. Geotechnical
2. Site Surveyor
3. Additional Sites included for Site Analysis Studies

C. SERVICES PROVIDED BY COUNTY

The County shall secure by separate Consultant contract, the professional services of the following specialty consultants:

1. A value-engineering consultant that will provide guidance in planning efficiencies, identifying cost containment strategies, construction techniques that allow expedient assembly and life cycle cost efficiencies of proposed systems.
2. Site searches and initial site selection narrowing.

D. EXISTING CONDITIONS:

At present, a specific site for the Juvenile Detention Center has not been determined. A general sphere of influence for siting the center will include land within ten to fifteen minutes travel time away from downtown out to the current urban fringe of the City of Fresno.

II. PROJECT INFORMATION AND REQUIREMENTS

A. PROJECT DETAILED DESCRIPTION

The Project will consist of the following elements:

1. Verify the 1999 Justice System Master Plan Statistical data and model assumptions as they apply to Fresno County's Juvenile Justice System. Consider impacts of in place alternative sentencing plan and limited growth at the Elkhorn Juvenile Corrections Center to only address rehabilitation programs.
2. Prepare an overall architectural space allocation program with adjacencies and proximity diagrams of all functional units and their interrelationships. Using the space allocation document as a basis, prepare a master floor plan for the complete Juvenile Detention Center. The center will be all encompassing and shall provide for all support office activities for other agencies and county departments providing services to the Juvenile Detention Center. A partial listing has been identified in Exhibit 1.

B. PROJECT TIMELINE

See Exhibit 2 for project delivery timeline associated with this project.

Note: Short listed firm interviews has tentatively been set for week of February 19, 2001. Firms to be advanced to finalist status will be notified by phone and fax on January 12, 2001.

C. SAMPLE CONSULTANT AGREEMENT AND SPECIAL CONDITIONS:

Sample Consultant Agreement (Exhibit 3) is provided as an example of the typical language in a consultant service agreement with the County. It is recommended that the Consultant review the sample agreement with legal and insurance providers. Finalists should be prepared to raise agreement concerns and identify all contract issues at the interview.

III. SERVICES OF THE CONSULTANT**A. PRE-DESIGN PHASE:**

The Consultant shall:

1. Review historical data on county's past juvenile arrest and incarceration rates. Establish projection rates and population distribution ratios of male to female.
2. Develop a needs assessment and space utilization study; to the extent necessary modify or expand the study to fully define the functional space needs and required adjacencies and proximities to fully develop the proposed building for the "user" departments for the year 2017.
3. Review and make corrections to the document as necessary after review with various County interest groups and as directed by County staff.
4. If requested, prepare and present a report of the updated needs assessment before the Board of Supervisors.
5. Assist in the evaluation for suitability of the County's proposed site. See Contract, division V.C. extra services for Consultant's involvement if multiple site evaluations are necessary.
6. Prepare Initial Study and Environmental / Land Use review documentation.
7. Participate in the public meetings, formal hearings and review process of the Draft Environmental Impact Study and other applicable Land Use Applications.

B. SCHEMATIC DESIGN PHASE:

The Consultant shall:

1. Review and incorporate into a master plan the Final Environmental Impact

Study findings and any prescribed mitigating measures that may pertain to the project. The County will provide the EIS/EIR application review under separate contract.

2. Incorporate any mitigating measures of the Environmental Impact Report Study.
3. Develop project parameters in concert with the County's Building Committee recommendations and concerns. Confer with the Building Committee on construction system component preferences scheduling, bidding and contracting strategies.
4. Develop schematic design site and floor plans, sections, exterior elevations, sketches and other drawings and reports consisting of conceptual illustrations with continuing input and review from the Building Committee.
5. Prepare a schematic design consisting of floor plans with square footage and rough dimensions, and illustrate the function of the rooms. More than one proposed floor plan may be required.
6. Prepare all application and support documentation materials for the total site development necessary to make application for an initial study, environmental impact study to meet both NEPA and CEQA processing and Conditional Use Permit. Provide the County with copies of submittal documentation as required by application process and ten (10) additional copies to the Department of Public Works.

Participate in:

One (1) Scoping session

Six (6) Staff review meetings

Four (4) Public meeting presentations

7. Identify a logical Phase 1 development that would best fit the most urgent needs and available BOC and County funding resources.
8. Prepare construction cost, budget estimates, and project time line for the proposed development.
9. Participate in reconciliation review meeting of third party estimate of project.
10. Monitor and keep County informed regarding the impact of design issues on the project budget. Upon the request of the County, Consultant shall incorporate into the design such reasonable changes as the County deems appropriate as a result of the County's review process and impact on the budget or opinion of probable construction cost.

11. Modify or delete portions of the proposed construction work, or reduce program space at the Request of the County if the schematic opinion of probable construction cost indicates increases in costs above the project budget. Adhere to any such modifications in the preparation and completion of the schematic plans, opinion of probable construction cost, and specifications in work performed under this phase.
12. Prepare presentation quality site and floor plans, exterior elevations and aerial view perspective rendering of building and two interior renderings
13. Submit and review with the County twenty (20) copies of the final schematic design. The twenty copies shall be submitted to the County seven (7) calendar days prior to the Board of Supervisors meeting.
14. Make a formal presentation before the Board of Supervisors of the proposed project's design, space requirements, cost estimates, and timeline. Attend and participate in a rehearsal prior to presentation of the project before the Board of Supervisors.
15. Upon request by the County, following Consultant's completion of item numbers; 1 through 14 above, consultant shall provide to County an itemized cost estimate for Consultant's performance of the following work for a project scope identified in the Master Plan / Schematic Design documents as Phase 1:
 - (a) preparation of a Design Development package (P, S, & E) for Phase 1;
 - (b) assistance in preparation of grant application materials for County's use in competing for future grants administered by the BOC; and
 - (c) completion of subsequent phases of the design for the Phase 1 scope, in the event of grant success and necessary authorization.

If the County determines that the cost estimate provided by the Consultant is fair and reasonable, then such estimate may form the basis for the County's exercise of its option to extend the Contract, subject to final negotiations with Consultant, for Consultant's performance of some or all of the services encompassed in the cost estimate.

IV. SERVICES PROVIDED BY THE COUNTY

Fresno County will provide the services listed below in support of the consultant's professional services. The consultant shall be responsible for the evaluation of all information supplied by the County and verifying its accuracy.

The County will:

1. Provide prints, if available, of the existing facility building's plans, and reports prepared to evaluate the building. Documents shall be consigned to the consultant and shall be returned to the County upon request or project completion. The return of all loaned documents is mandatory. Final payment will not be made until all loaned documents are either accounted for or returned.
2. Transmit documents for other agency reviews and pay all application and review processing costs.
3. Provide initial sites for consideration and evaluation.
4. Process the County required land use and environmental applications with Consultant supplied site and floor plans, operational statement, system data, and staffing requirements.

V. BACKGROUND CHECK

The County reserves the right to conduct a background inquiry of each proposer, which may include collection of appropriate criminal history information, contractual and business associations, business practices, employment histories, and reputation in the business community. By submitting a proposal to the County, the proposer consents to such an inquiry and agrees to make available to the County such books and records the County deems necessary to conduct the inquiry.

VI. PROPOSAL SUBMITTAL REQUIREMENTS

Do not submit more information than requested by Part VI of this Request for Proposal. A Selection Committee will evaluate the completeness of the proposal.

Submittal will be in two parts.

PART A

The first part will enable the County to appraise the general qualifications of the consultant. You must answer the following questions in the same sequence as below.

1. Firm name, address and phone number.
2. Specify type of organization (sole-proprietorship, partnership, or corporation), and if applicable, indicate whether you are:

- (a) Small Business
 - (b) Disadvantaged Business
 - (c) Minority and/or Women Owned Business
3. Firm principals who will be responsible for the project, their educational background, credentials, and experience with similar type work.
 4. Key personnel who will be assigned to work on the project, educational background, credentials, and experience on comparable projects. Indicate the tasks to be performed by these key individuals and expected time or effort they will commit to the project.
 5. Subconsultants (mechanical, electrical, structural and others as the project may require) to be used. Indicate the tasks to be performed by these consultants.
 6. Present staff - number and classification. Will you have to secure more staff to complete the commission?
 7. List current projects or commitments for architectural or engineering services being handled your office.
 8. List, in reverse chronological order, for the last four years similar government detention and correctional facilities projects completed or under construction for which your firm provided design services:

Indicate for each of these projects:

- (a) Name of project.
 - (b) Project location.
 - (c) Brief description (type of construction, functional components, special design considerations).
 - (d) Square footage of project and number of detention beds and floors, building construction type.
 - (e) Name of owner.
 - (f) Name of owner's contact person and telephone number (contact person, who, at the time of RFP submittal, was, will be or is employed by the owner and who would have personal knowledge of the completed work).
 - (g) Your firm's specific involvement (prime architect/engineer (A/EOR), sub-consultants or other capacity).
 - (h) The bid cost vs. final opinion of probable construction cost.
 - (i) Status of completion.
9. List at least four additional references of present or past clients with their telephone numbers and fax number.

10. Include a current copy of Standard Form 254 (showing relevant facility experience).
11. The Consultant will submit as a part of his or her initial submittal the firms' current basic hourly rate schedule for all current employee classifications. Such hourly labor rates shall include costs for items such as office supplies, computer and plotting supplies, printing, postage, vehicle costs, and other incidentals.

(Printing includes normal office copying and printing, check plots and check prints, and other incidental printing. Printing includes other agency review/approval plans if specifically required as a basic service in accordance with Section III. Other printing is usually either authorized as an extra service or arranged through the County's contracted printing companies at the County's expense.)

Include the same information for all proposed sub-consultants. Hourly rates shall be used as the basis of assessing changes in the scope of work.

The Consultant will be required to submit a sealed estimated fee proposal based on the scope of work defined in this Request For Proposal and subsequent addenda, only if selected as a finalist.

PART B

The second part covers the tasks required of the consultant.

1. The Consultant will explain in detail the approach to the implementation of the project requirements and constraints, including time line, highlighting differences between the Consultant's proposed time line and that stated in this Request for Proposal.
2. The Consultant will further explain the probable time frame for completing each task or service described in Section III, preferably through the use of a bar chart with start - finish dates and critical time line indicated.
3. The Consultant shall comment on the suitability of the proposed project program, and with the adequacy of the proposed construction budgets to meet the program needs.

VII. CONSULTANT SELECTION PROCEDURE

The selection procedure shall be in accordance with Fresno County Ordinance Code Chapter 4.10 and applicable provisions of the "Policy for Selection and Compensation of Architectural/Engineering Consultants" as last revised by the Board of Supervisors

on November 29, 1994. The process includes the following provisions:

A project Selection Committee will be formed to evaluate the proposals and to make recommendations to the Fresno County Board of Supervisors.

The Selection Committee will consist of members from the Probation Department, Department of Public Works, and County Administrative Office, and may include a representative knowledgeable in architectural/engineering services from outside the community or from one of the universities. The Selection Committee will screen the received responses to the RFP and may select three or more firms as finalists. More firms will be considered as finalists when, in the judgment of the Selection Committee, other firms are equally qualified to provide the requested professional services. Finalists will be requested to interview with the Selection Committee as a part of the evaluation process.

After the finalist firms have been identified, and as a part of the Selection Committee's evaluation at interview time, the finalist firms will be required to submit an estimated fee proposal to provide professional services for the project. The finalist firms' estimated fee proposals will be opened only after the Selection Committee has completed all of the interviews and considered each of the finalist's qualifications. The Selection Committee will consider the estimated fee proposals in its final deliberations.

The Selection Committee will address the following criteria in its evaluation of proposals (not necessarily listed in order of importance).

- A. The Consultant's experience with emphasis on projects involving government juvenile detention and correctional facilities. Preference will be given to applicants with prior experience in the planning and design of this type of project.
- B. Educational background of the Consultant's key individuals who will be assigned to the project on a full-time basis.
- C. Quality of past performance on projects for the County or similar agencies.
- D. The qualifications of individuals within the Consultant's organization who will directly be responsible for the work. The County reserves the right to approve the Consultant's project manager.
- E. Adequacy of staff to perform the work within the time allowed.
- F. Approach proposed for solving this project's design problems and project requirements.
- G. Demonstrated ability to make effective public presentations on the requested reports and proposed designs.

- H. Demonstrated ability to work effectively with County staff, other public agencies and related parties.
- I. New or innovative ideas presented by the Consultant in the proposal or presentations.
- J. Demonstrated ability to keep costs within project budgets and design estimates.
- K. Knowledge of local conditions.
- L. The Consultant's demonstrated interest in regards to the success, efficiency, and workability of the facility during construction and post construction operation.
- M. Whether the Consultant is currently engaged in another project that has direct and substantial physical relationship to the proposed project.
- N. Whether the Consultant who designed the original facility should be retained for the new work on the basis of cost, detailed knowledge of the existing facility, or necessity of use of the same design concept in the work.
- O. Demonstrated record of abiding by terms of subcontract agreements regarding timely payment for services rendered on County projects.
- P. Ability of the Consultant to furnish effective and timely construction observation services.
- Q. Comprehensive answers to the questions in the proposal.
- R. The estimated fee proposal will be a factor in the final selection - only after the most qualified firms have been identified.
- S. All other things being equal; local (within Fresno County) Consultants are preferred over non-local consultants.
- T. All other things being equal, non-local Consultants who partner with a local Consultant for the purpose of the particular services required shall be preferred to non-local consultants without local ties.

The recommended finalist Consultant selection is anticipated to occur in March 2001.

The Consultant selected will be expected to start work as soon as the Board of Supervisors approves the final Consultant agreement. The anticipated approval date is in April 2001.

VIII. FEE DETERMINATION

The Consultant compensation amount for the project will be negotiated with the Board of Supervisors selected firm. In the event negotiations fail with this firm, the County will terminate negotiations and commence new negotiations with the next most qualified firm.

Exhibit 1

Departments and Functional Units for Possible Relocation

Juvenile Courts

- Delinquency Courts
- Holding Cells
- Attorney Interview Rooms
- Judge Chambers
- Administrative Offices
- Administration
- Support Functions (Court Reporter & Interpreters)

Clerk's Office

- Court Calendaring
- Juvenile Records

District Attorney

- Criminal Division – Juvenile Unit

Public Defender

- Juvenile Division

Community Based Organizations

- Alternate Counsel

Sheriff

- Bailiff Functions

Department of Community Health

- Medical Examination and Offices
- Dental Examination and Offices
- X-Ray
- Pharmacy
- Medical Laboratory
- Drug Monitoring
- Sick Bay
- Isolation Rooms
- Personnel Offices

Mental Health Services

- Medical Offices – Single, Private
- Secretary/Reception
- Records Storage
- Supply/Copy Room

Mental Health Services (continued)

- Group Counseling

Juvenile Probation

- Administration
- Business Office
- Clerical Support
- Field Supervision
- Juvenile Court Investigation
- Electronic Monitoring
- Juvenile Intake and Placement
- Work Furlough/Supervised Home Detention
- Electronic Monitoring

Juvenile Detention Unit

- Administration
- Staff Facilities and Lockers
- Briefing and Training
- Central Control
- Admit / Booking / Release
- Security and Isolation
- Isolation Cells
- Cell Housing
- Residential Core Support
- Interview
- Visiting
- Multipurpose
- Recreation

Schools

- Administration and Support
- Teacher's Preparation
- Supply and Instructional Material Storage
- Academic Classrooms

Building and Warehousing Center

- Central Laundry
- Food Service and Distribution
- Central Plant
- Power Distribution and Emergency Power Generation
- Personal Property Storage
- Detention Materials Storage
- Supplies and Expendables Storage

Fresno County Juvenile Justice System Master Plan

Project Start Date: Tues 10/03/00

Project Finish Date: Wed 9/3/03

Task_Data

ID	Task_Name	Duration	Start_Date	Finish_Date	Predecessors	Resource_Names
1	BOS PROJECT AUTHORIZATION	0 days	Tue 10/3/00	Tue 10/3/00		
2	ESTABLISH PROJECT ACCOUNT	30 days	Fri 10/13/00	Wed 11/29/00	1	
3	REVIEW NEEDS ASSESSMENT	3 days	Mon 10/9/00	Wed 10/11/00	1SS	
4	IDENTIFY OF PROJECT SCOPE AND UNMET NEEDS	2 days	Wed 10/18/00	Thu 10/19/00	3	
5	FORMAL A/E RFP & SELECTION	123 days	Wed 10/11/00	Wed 4/18/01		
6	PROJECT START-UP	0 days	Wed 10/11/00	Wed 10/11/00	3	
7	PROJECT ASSESSMENT	4 wks	Thu 10/12/00	Wed 11/8/00	6SS	
8	RFP SOLICITATION	4 wks	Mon 11/13/00	Tue 12/12/00	7	
9	FIELD REVIEW w/ CANDIDATES	0 days	Fri 12/1/00	Fri 12/1/00	8FF-7 days	
10	ADDENDA	5 days	Thu 11/30/00	Wed 12/6/00	8FF-4 days	
11	RFP SUBMITTAL	0 days	Tue 12/12/00	Tue 12/12/00	8	
12	DISTRIBUTE RFP RESPONSES	3 days	Wed 12/13/00	Fri 12/15/00	11	
13	REVIEW QUALIFICATIONS	5 days	Wed 12/13/00	Tue 12/19/00	12SS	
14	SUMMARIZE QUALIFIED CANDIDATES	6 days	Wed 12/13/00	Wed 12/20/00	13SS,11	
15	CONVENE SELECTION COMMITTEE	2 days	Fri 12/22/00	Tue 1/2/01	12,14FF+3 days	

16	SHORT LISTING (DETERMINATION OF QUALIFIED CONSULTANTS)	0 days	Tue 1/2/01	Tue 1/2/01	15	
17	SET INTERVIEWS	2 days	Wed 1/3/01	Thu 1/4/01	16	
18	NOTIFICATION OF CANDIDATE POOL	1 day	Tue 1/16/01	Tue 1/16/01	17SS	
19	POSSIBLE APPEAL OF QUALIFIED CONSULTANT POOL DECISION	10 days	Wed 1/17/01	Tue 1/30/01	18	
20	PROTEST REVIEW	3 days	Wed 1/31/01	Fri 2/2/01	19	
21	QUALIFIED A/E FIRM INTERVIEW PREPARATION	6 wks	Fri 1/5/01	Fri 2/16/01	17	
22	DRAFT CONTRACT	9 days	Wed 12/13/00	Tue 1/2/01	16FF	
23	INTERVIEW & ESTIMATED FEE PROPOSAL	1 day	Tue 2/20/01	Tue 2/20/01	17,22FS+8 days,21	
24	RECOMMENDED SELECTION	0 days	Tue 2/20/01	Tue 2/20/01	23	
25	BOS FINALIST SELECTION w/ DPW RECOMMENDATION	10 days	Wed 2/21/01	Tue 3/6/01	24	
26	NOFIFICATION OF PENDING SELECTION	3 days	Fri 2/23/01	Tue 2/27/01	25FF-5 days	
27	NEGEOTIATIONS w/ FINALIST A/E FIRM	2 wks	Wed 3/7/01	Tue 3/20/01	25	
28	FINALIZE CONTRACT	3 days	Tue 3/20/01	Thu 3/22/01	27FF+2 days	
29	SIGNATURES	7 days	Fri 3/23/01	Mon 4/2/01	28	
30	BOS w/FINALIST CONTRACT	10 days	Wed 3/28/01	Tue 4/10/01	29FF+6 days	
31	CONTRACT EXECUTION	1 day	Wed 4/11/01	Wed 4/11/01	30	
32	NOTIFICATION TO OTHER QUALIFIED CONSULTS	5 days	Thu 4/12/01	Wed 4/18/01	31	
33	BEGIN CONTRACT WORK	0 days	Wed 4/11/01	Wed 4/11/01	31	

34	CONSULTANT TEAM ORIENTATION	1 day	Thu 4/12/01	Thu 4/12/01	33	
35	COLLECTION AND REVIEW OF STATISTICAL DATA	4 wks	Fri 4/13/01	Thu 5/10/01	34	
36	STATISTICAL MODELING	1 wk	Fri 5/11/01	Thu 5/17/01	35	
37	REVIEW DRAFT REPORT OF MODEL	18 days	Fri 5/18/01	Wed 6/13/01		
38	STAFF MEETINGS	3 days	Fri 5/18/01	Tue 5/22/01	36	
39	CORRECTIONS	5 days	Wed 5/23/01	Wed 5/30/01	38	
40	QUASI-PUBLIC COMMITTEE REVIEW	1 day	Thu 5/31/01	Thu 5/31/01	39	
41	FINALIZE DRAFT REPORT	5 days	Wed 5/23/01	Wed 5/30/01	38	
42	REVIEW OF FINAL REPORT	10 days	Thu 5/31/01	Wed 6/13/01	41	
43	NEEDS ASSESSMENT	65 days	Thu 6/14/01	Fri 9/14/01		
44	MEETINGS WITH USER GROUPS	8 wks	Thu 6/14/01	Thu 8/9/01	42	
45	REFINEMENTS OF NEEDS ASSESSMENT	6 wks	Fri 7/13/01	Thu 8/23/01	44FF+2 wks	
46	REVIEW OF DRAFT REPORT	2 wks	Fri 8/24/01	Fri 9/7/01	45	
47	FINAL REVIEW DOCUMENT	1 wk	Mon 9/10/01	Fri 9/14/01	46	
48	SITE EVALUATION(S)	80 days	Thu 4/12/01	Fri 8/3/01		
49	SITE POOL DEVELOPED BY COUNTY'S REAL PROPERTY DIVISION	6 wks	Thu 4/12/01	Wed 5/23/01	31	
50	NARROWING OF SELECTION BY OWNER	3 days	Thu 5/24/01	Tue 5/29/01	49	
51	REVISED POOL	1 day	Wed 5/30/01	Wed 5/30/01	50	
52	DATA COLLECTION	3 wks	Thu 5/31/01	Wed 6/20/01	51	
53	DATA EVALUATION	2 wks	Thu 6/14/01	Wed 6/27/01	52FF+1 wk	
54	DRAFT REPORT	4 days	Tue 6/26/01	Fri 6/29/01	53FF+2 days	

55	STAFF REVIEW	10 days	Mon 7/2/01	Mon 7/16/01	54	
56	CORRECTIONS	5 days	Tue 7/17/01	Mon 7/23/01	55	
57	FINAL REPORT	3 days	Tue 7/24/01	Thu 7/26/01	56	
58	COUNTY REVIEW	5 days	Fri 7/27/01	Thu 8/2/01	57	
59	RECOMMENDATION	1 day	Fri 8/3/01	Fri 8/3/01	58	
60	REPORT TO BOARD OF SUPERVISORS	15 days	Mon 9/10/01	Fri 9/28/01	46	
61	PREPARE AGENDA ITEM	15 days	Mon 9/10/01	Fri 9/28/01	46,59	
62	REPORT	0 days	Fri 9/28/01	Fri 9/28/01	61	
63	PREPARATION OF IS/ EIR SUBMITTAL DOCS.	19 days	Mon 10/1/01	Thu 10/25/01		
64	STAFF REVIEW	10 days	Mon 10/1/01	Fri 10/12/01	62	
65	CORRECTIONS	4 days	Mon 10/15/01	Thu 10/18/01	64	
66	FINAL DOCUMENT PREP	5 days	Fri 10/19/01	Thu 10/25/01	65	
67	IS	4 wks	Fri 10/26/01	Fri 11/23/01	66	
68	NEPA - EIS / CEQA - EIR	238 days	Mon 11/26/01	Fri 10/25/02		
69	NOTICE OF PREPARATION	30 days	Mon 11/26/01	Tue 1/8/02	66,67	
70	ADDITIONAL STUDIES	8 wks	Wed 1/9/02	Tue 3/5/02	69	
71	ADMINISTRATIVE PREP DEIR	30 days	Wed 3/6/02	Tue 4/16/02	70	
72	STAFF REVIEW	21 days	Wed 4/17/02	Wed 5/15/02	71	
73	CONSULTANT CORRECTIONS	15 days	Thu 5/16/02	Wed 6/5/02	72	
74	PRINT DRAFT REPORT	5 days	Thu 6/6/02	Wed 6/12/02	73	
75	PRINTING & DISTRIBUTION	5 days	Thu 6/13/02	Wed 6/19/02	74	
76	PUBLIC REVIEW & COMMENT	45 days	Thu 6/20/02	Wed 8/21/02	75	
77	COMMENTS TO CONSULTANTS	3 days	Thu 8/22/02	Mon 8/26/02	76	
78	CONSULTANT RESPONSE TO COMMENTS	21 days	Tue 8/27/02	Tue 9/24/02	77	
79	STAFF REVIEW	15 days	Wed 9/25/02	Tue 10/15/02	78	

80	CONSULTANT CORRECTIONS	5 days	Wed 10/16/02	Tue 10/22/02	79	
81	STAFF REVIEW	2 days	Wed 10/23/02	Thu 10/24/02	80	
82	FEIR DOCUMENT PRINTING	1 day	Fri 10/25/02	Fri 10/25/02	81	
83	CONDITIONAL USE PERMIT	20 wks	Mon 6/10/02	Fri 10/25/02	82FF	
84	PUBLIC NOTICE	21 days	Wed 11/27/02	Wed 12/25/02	89FF	
85	PLANNING COMMISSION REVIEW	43 days	Mon 10/28/02	Wed 12/25/02		
86	PUBLIC HEARINGS OF DEIR	21 days	Mon 10/28/02	Mon 11/25/02	82	
87	ADVANCE CIRCULATION	21 days	Tue 11/26/02	Tue 12/24/02	86	
88	STAFF REPORT	6 days	Wed 12/18/02	Wed 12/25/02	89FF	
89	PC AGENDA	10 days	Thu 12/12/02	Wed 12/25/02	87FF+1 day	
90	PLANNING COMMISSION PROTEST	10 days	Thu 12/26/02	Wed 1/8/03	89	
91	BOS	14 days	Thu 1/9/03	Tue 1/28/03		
92	PREPARE AGENDA ITEM	14 days	Thu 1/9/03	Tue 1/28/03	90	
93	PRESENTATION	0 days	Tue 1/28/03	Tue 1/28/03	92	
94	MITIGATING MEASURES	15 days	Wed 1/29/03	Tue 2/18/03	93	
95	BOS	10 days	Wed 2/19/03	Tue 3/4/03		
96	PREPARE AGENDA ITEM	10 days	Wed 2/19/03	Tue 3/4/03	94	
97	BOS REVIEW AND ADOPTION OF FEIR & MITIGATING MEASURES	0 days	Tue 3/4/03	Tue 3/4/03	86,96	
98	PROJECT SCHEMATIC	131 days	Wed 3/5/03	Wed 9/3/03		
99	PROGRAM CONFIRMATION	8 wks	Wed 3/5/03	Tue 4/29/03	97	
100	REVISED PROGRAM	30 days	Wed 3/19/03	Tue 4/29/03	99SS+2 wks	
101	BOC REVIEW	1 wk	Wed 4/30/03	Tue 5/6/03	100	
102	SCHEMATIC DESIGN DRAWINGS	10 wks	Wed 5/7/03	Tue 7/15/03	101,97FF+3 wks	

103	ESTIMATE	2 wks	Wed 7/16/03	Tue 7/29/03	102	
104	REVIEW & USER APPROVAL	10 days	Wed 7/30/03	Tue 8/12/03	103	
105	BOARD APPROVAL	16 days	Wed 8/13/03	Wed 9/3/03	104	
106	FORMAL RFP & SELECTION ENVIRON CONSULT	118 days	Mon 6/11/01	Mon 11/26/01		
107	PROJECT START-UP	0 days	Mon 6/11/01	Mon 6/11/01		
108	PROJECT ASSESSMENT	2 wks	Mon 6/11/01	Fri 6/22/01	107	
109	RFP SOLICITATION	21 days	Mon 6/25/01	Tue 7/24/01	108	
110	FIELD REVIEW w/ CANDIDATES	3 days	Wed 7/11/01	Fri 7/13/01	109FF-7 days	
111	ADDENDA	5 days	Mon 7/2/01	Mon 7/9/01	110FF-4 days	
112	RFP SUBMITTAL	0 days	Tue 7/24/01	Tue 7/24/01	109	
113	DISTRIBUTE RFP RESPONSES	2 wks	Wed 7/25/01	Tue 8/7/01	112	
114	REVIEW QUALIFICATIONS	3 days	Wed 7/25/01	Fri 7/27/01	113SS	
115	SUMMARIZE QUALIFIED CANDIDATES	4 days	Wed 8/1/01	Mon 8/6/01	114SS+5 days	
116	CONVENE SELECTION COMMITTEE	5 days	Wed 8/8/01	Tue 8/14/01	113,115	
117	SHORT LIST	1 day	Wed 8/15/01	Wed 8/15/01	116	
118	SET INTERVIEWS	3 days	Thu 8/16/01	Mon 8/20/01	117	
119	DRAFT CONTRACT	5 days	Thu 8/9/01	Wed 8/15/01	117FF	
120	INTERVIEW & FEE ESTIMATE FEE	1 day	Tue 8/21/01	Tue 8/21/01	118,119	
121	RECOMMEND SELECTION	0 days	Tue 8/21/01	Tue 8/21/01	120	
122	NOTIFICATION OF PENDING SELECTION	3 days	Mon 8/13/01	Wed 8/15/01	121FF-4 days	
123	BOS w/ RECOMMENDATION	3 wks	Wed 8/22/01	Wed 9/12/01	121,122	
124	NEGOTIATIONS w/ A/E	2 wks	Thu 9/13/01	Wed 9/26/01	123	
125	FINALIZE CONTRACT	5 days	Thu 9/27/01	Wed 10/3/01	124	

126	SIGNATURES	4 days	Thu 10/4/01	Tue 10/9/01	125	
127	BOS w/ CONTRACT	3 wks	Wed 10/3/01	Tue 10/23/01	126FF+10 days	
128	CONTRACT EXECUTION	0 days	Tue 10/23/01	Tue 10/23/01	127	
129	DEAR JOHN LETTERS	5 days	Wed 10/24/01	Tue 10/30/01	128	
130	BEGIN CONTRACT WORK	0 days	Tue 10/30/01	Tue 10/30/01	129	
131	CONSULTANT TEAM ORIENTATION	1 day	Mon 11/26/01	Mon 11/26/01	67,130	
132	FORMAL RFP & SELECTION VALUE ENGINEER CONSULT	100 days	Mon 10/29/01	Wed 3/20/02		
133	PROJECT START-UP	0 days	Mon 10/29/01	Mon 10/29/01		
134	PROJECT ASSESSMENT	2 wks	Mon 10/29/01	Mon 11/12/01	133	
135	RFP SOLICITATION	21 days	Tue 11/13/01	Tue 12/11/01	134	
136	FIELD REVIEW w/ CANDIDATES	3 days	Wed 11/28/01	Fri 11/30/01	135FF-7 days	
137	ADDENDA	5 days	Tue 11/20/01	Mon 11/26/01	136FF-4 days	
138	RFP SUBMITTAL	0 days	Tue 12/11/01	Tue 12/11/01	135	
139	DISTRIBUTE RFP RESPONSES	2 wks	Wed 12/12/01	Wed 12/26/01	138	
140	REVIEW QUALIFICATIONS	3 days	Wed 12/12/01	Fri 12/14/01	139SS	
141	SUMMARIZE QUALIFIED CANDIDATES	4 days	Wed 12/19/01	Mon 12/24/01	140SS+5 days	
142	CONVENE SELECTION COMMITTEE	5 days	Thu 12/27/01	Thu 1/3/02	139,141	
143	SHORT LIST	1 day	Fri 1/4/02	Fri 1/4/02	142	
144	SET INTERVIEWS	3 days	Mon 1/7/02	Wed 1/9/02	143	
145	DRAFT CONTRACT	5 days	Fri 12/28/01	Fri 1/4/02	143FF	
146	INTERVIEW & FEE ESTIMATE FEE	1 day	Thu 1/10/02	Thu 1/10/02	144,145	
147	RECOMMEND SELECTION	0 days	Thu 1/10/02	Thu 1/10/02	146	

148	NOTIFICATION OF PENDING SELECTION	3 days	Wed 1/2/02	Fri 1/4/02	147FF-4 days	
149	BOS w/ RECOMMENDATION	3 wks	Fri 1/11/02	Thu 1/31/02	147,148	
150	NEGEOTIATIONS w/ A/E	2 wks	Fri 2/1/02	Thu 2/14/02	149	
151	FINALIZE CONTRACT	5 days	Fri 2/15/02	Thu 2/21/02	150	
152	SIGNATURES	4 days	Fri 2/22/02	Wed 2/27/02	151	
153	BOS w/ CONTRACT	3 wks	Thu 2/21/02	Wed 3/13/02	152FF+10 days	
154	CONTRACT EXECUTION	0 days	Wed 3/13/02	Wed 3/13/02	153	
155	DEAR JOHN LETTERS	5 days	Thu 3/14/02	Wed 3/20/02	154	
156	BEGIN CONTRACT WORK	0 days	Wed 3/20/02	Wed 3/20/02	155	
157	CONSULTANT TEAM ORIENTATION	1 day	Tue 5/20/03	Tue 5/20/03	101FF+2 wks	
158	SCHEMATIC DESIGN INPUT	10 wks	Wed 5/21/03	Tue 7/29/03	102SS+2 wks,157	
159	LIFE CYCLE COST EVALUATION	10 days	Wed 6/11/03	Tue 6/24/03	102FF-3 wks,157	
160	ESTIMATE INDEPENDENT VERIFICATION	24 days	Wed 7/16/03	Mon 8/18/03	103SS	
161	INDEPENDENT ESTIMATE	2 wks	Wed 7/16/03	Tue 7/29/03	103SS	
162	SUBMITTAL TO COUNTY	4 days	Wed 7/30/03	Mon 8/4/03	161,103FF	
163	ESTIMATE RECONCILIATION	1 day	Tue 8/5/03	Tue 8/5/03	162,159	
164	FINAL REVISIONS	4 days	Wed 8/13/03	Mon 8/18/03	163,159,104	

1
2 **(EXHIBIT 3 - SAMPLE FORM - AGREEMENT FOR ARCHITECTURAL SERVICES)**

3 THIS AGREEMENT is made and entered into this _____ day
4 of _____, 20__, between the County of Fresno, a political
5 subdivision of the State of California, (hereinafter called
6 "COUNTY"), and
7 ***[Consultant's firm name]*** _____, Architect
8 / Engineer, (A [State] Corporation / Partnership),
9 ***[Individual's name]*** _____ a sole proprietor doing
10 business as ***[Firm name]***,
11 ***[address]*** _____, (hereinafter called
12 "CONSULTANT").

13 **W I T N E S S E T H:**

14 WHEREAS, COUNTY desires to retain a consultant _____
15 engineer to prepare master plan, conceptual design plans,
16 specifications, opinion of probable construction cost and other
17 documents required for the new Juvenile Detention Center,
18 hereinafter called the Project; and

19 WHEREAS, said consultant architect has been selected in
20 accordance with COUNTY's Ordinance Code Chapter 4.10 on the
21 selection of architects, engineers, and other professionals to
22 provide the engineering services necessary for the Project.

23 WHEREAS, said CONSULTANT represents that it is qualified and
24 willing to perform the architect services required by the COUNTY
25 for these projects.

26 NOW, THEREFORE, the parties hereto have and by these presents
27 do agree as follows:
28

1
2 I. CONTRACTING WITH CONSULTANT: BASIC PARAMETERS

3 A. The COUNTY hereby contracts with the CONSULTANT as an
4 independent contractor to provide consultant services as required
5 for the project. Said services are described in Article II and
6 enumerated in Article III herein.

7 B. The CONSULTANT shall retain structural engineering,
8 electrical engineering, and other subconsultants as CONSULTANT
9 requires to assist in completing the work. All subconsultants used
10 by CONSULTANT shall be approved by the COUNTY before they are
11 retained by the CONSULTANT, which approval shall not be
12 unreasonably withheld. Subconsultants listed in Exhibit ____,
13 attached hereto and incorporated herein, shall be considered as
14 approved by the COUNTY. Should CONSULTANT retain any
15 subconsultants, compensation to be paid to CONSULTANT under Article
16 V below, shall not be increased.

17 C. The CONSULTANT's services shall be performed as
18 expeditiously as is consistent with professional skill and the
19 orderly progress of the work, based on project schedules prepared
20 by the COUNTY.

21 D. The CONSULTANT and affiliated subconsultants shall not
22 submit bids, or subbids, for the contract construction phase of the
23 project for which CONSULTANT provides services hereunder. The
24 CONSULTANT and its subconsultants, and all other service providers,
25 shall not provide any project-related services for, or receive any
26 project-related compensation from any construction contractor,
27 subcontractor or service provider awarded a construction contract
28 for all or any portion of the project for which CONSULTANT provides

1 services hereunder. The CONSULTANT and its subconsultants, and all
2 other service providers, may provide services for, and receive
3 compensation from a construction contractor, subcontractor or
4 service provider who has been awarded a construction contract for
5 all or any portion of the project, provided that any such services
6 which are rendered, and any compensation which is received therefor
7 relates to work outside the scope of this Agreement.

8 II. DESCRIPTION OF THE WORK COVERED BY THIS AGREEMENT:

9 A. The work covered by this Agreement is for the consultant
10 services needed for the development of a master plan study for a
11 new Juvenile Detention Center, as described in Exhibit 1, attached,
12 which is incorporated herein.

13 III. CONSULTANT'S SERVICES:

14 [Consultant services will generally follow those described in
15 the RFP]

16 IV. COUNTY'S OBLIGATIONS:

17 [County's Obligations will generally follow those described
18 in the RFP]
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20
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1 V. COMPENSATION:

2 A. Total Fee:

3 1. Notwithstanding any other provisions in this
4 Agreement, the Total Fee (Basic Fee plus Extra Services Allocation)
5 for the services required under this Agreement shall be the total
6 sum of \$_____. [limited to \$_____ based upon a total fee of
7 \$_____ for the _____ portion of the project and a total fee of
8 \$_____ for the _____ portion of the project.]

9 B. Basic Fee:

10 1. Notwithstanding any other provisions in this
11 Agreement, the Basic Fee for the services required under Article
12 III shall be the total sum of \$_____, based upon a Basic Fee of
13 \$_____ for the _____ portion of the project and a Basic Fee of
14 \$_____ for the _____ portion of the project. Within the Total
15 Fee limitation described in Section V.B.1. above, the Basic Fee for
16 each portion of the project (whether _____ or _____) shall
17 be divided as follows for purposes of payment scheduling:

18 Phase 1 - Pre-Design _____%

19 Phase 2 - Schematic /

20 Design Development _____%

21 2. All expenses incidental to CONSULTANT's performance
22 of services under Article III of this Agreement shall be borne by
23 CONSULTANT. Incidental expenses include, but may not be limited
24 to, transportation and travel, postage and courier services, photo
25 and duplicating services, telephone and facsimile charges, computer
26 storage media, drawing and plotting media, printing of "check
27 print" plans and plan sets and documents specifically required by
28 the provisions of Article III. of this Agreement.

1 C. Extra Services:

2 1. There will be an additional maximum allocation of
3 \$_____ to pay for authorized Extra Services. Payment of Extra
4 Services in excess of \$_____ is unauthorized and can only be
5 made pursuant to a prior written amendment to this Agreement when
6 the total of the Basic Fee and Extra Services allocation would
7 thereby be exceeded. The COUNTY Representative shall have the
8 discretion to adjust in writing the Basic fee and Extra Services
9 limits as long as the total Agreement amount of \$_____ is not
10 exceeded.

11 2. The CONSULTANT shall not undertake any Extra
12 Services without the advance written authorization of the COUNTY
13 Representative. The CONSULTANT and the COUNTY shall expressly
14 confirm in writing the authorization and maximum cost for any such
15 services before the CONSULTANT is compensated for any work thereon.
16 CONSULTANT shall not add markup percentages or costs to
17 subconsultant's costs or incidental costs unless expressly
18 authorized in writing by the COUNTY.

19 3. Except for Extra Services performed under subsection
20 V.C.4.a., payment for Extra Services will be at the identical
21 hourly and cost rates set forth in Exhibit ____.

22 4. The following are CONSULTANT services which are
23 considered as not included in Article III herein, but may be
24 required as Extra Services.

25 a. If necessary, advising and assisting the COUNTY
26 with respect to any settlement or litigation arising out of any
27 failure of CONTRACTOR to fully perform the construction contract in
28 accordance with the construction contract documents. Such services

1 shall be subject to III. Compensation for such Extra Services
2 shall not exceed CONSULTANT'S normal and customary hourly rates for
3 same.

4 b. Preparing change orders when the project scope
5 is changed on the basis of COUNTY-initiated requests, and such
6 changes are not a result of negligent errors, acts, or omissions by
7 the CONSULTANT.

8 c. Providing unforeseen, extraordinary, or unique
9 services or items not covered nor normally included in the Basic
10 Fee, but authorized by the COUNTY Representative.

11 5. If the CONSULTANT becomes aware of potential
12 unforeseen expenses that would not be covered by the Basic Fee of
13 this Agreement or for Extra Services as delineated in this Article
14 V, Section C, CONSULTANT shall inform the COUNTY of the extent and
15 nature of such expenses or services. Upon mutual agreement of the
16 CONSULTANT and the COUNTY, this Agreement may be amended in writing
17 to cover such unforeseen expense or cost of Extra Service.

18 6. In the event the COUNTY Representative expressly
19 authorizes Extra Services, CONSULTANT shall keep complete records
20 showing the hours and description of activities worked by each
21 person who works on the project and all costs and charges
22 applicable to the Extra Services work authorized. Should there be
23 a claim for Extra Services, the CONSULTANT understands and agrees
24 that he or she must specifically identify the activity, performer
25 of the activity, reason for the activity, and COUNTY official
26 requesting the activity, or the claim will be denied. CONSULTANT
27 shall be responsible for all subconsultants keeping similar
28 records. The CONSULTANT shall not stop the work, including the

1 design in other areas unrelated to the Extra Services request or
2 claim, unless it can be shown the project design cannot proceed
3 while a claim or request for Extra Services is being evaluated.

4 D. Payments:

5 1. Progress payments will be made by the COUNTY upon
6 receipt of the CONSULTANT's monthly invoices and approval by COUNTY
7 thereof, based on the COUNTY's evaluation of the completion of the
8 respective components of the projects(s). Invoices shall clearly
9 identify *[the portion of the work (_____ or _____ or _____) and*
10 *the Phase of the work,]*, and shall be submitted with the
11 documentation identified in paragraph V.D.5. below. CONSULTANT
12 shall submit separate invoices for Extra Services, accompanied with
13 copies of any subconsultant's invoices and costs for approved
14 incidentals.

15 Invoices shall be forwarded to:

16 Claude D. Dechow, County Architect
17 Fresno County Department of Public Works
18 2220 Tulare Street, Suite 608
19 Fresno, CA 93721-2106

20 2. Upon receipt of a proper invoice, the COUNTY
21 Department of Public Works will take a maximum of five (5) working
22 days to review, approve, and submit it to the COUNTY
23 Auditor-Controller/Treasurer-Tax Collector. Unsatisfactory or
24 inaccurate invoices will be returned to the CONSULTANT for
25 correction and resubmittal. Payment, less retention, will be
26 issued to CONSULTANT within forty (40) calendar days of the date
27 the Auditor-Controller/Treasurer-Tax Collector receives the
28 approved invoice.

1 3. COUNTY is entitled to and shall withhold a ten
2 percent (10%) retention from the earned compensation in accordance
3 with the provisions of Article VII of this Agreement.

4 4. Concurrently with the invoices, the CONSULTANT shall
5 certify (through copies of issued checks, receipts, or other COUNTY
6 pre-approved documentation) that complete payment, less a ten
7 percent (10%) retention, has been made by CONSULTANT to all
8 subconsultants as provided herein for all previous invoices paid by
9 the COUNTY, and that CONSULTANT has complied with state wage and
10 work hour laws and regulations. However, the parties do not intend
11 that the foregoing creates in any subconsultant or subcontractor a
12 third party beneficiary status or third party beneficiary rights,
13 and expressly disclaim any such status or rights.

14 5. Final invoice, and separate invoice for retentions,
15 shall be submitted to COUNTY no later than thirty (30) days after
16 the project is completed. The CONSULTANT shall provide its
17 certification acceptable to the COUNTY, on COUNTY request, that all
18 subconsultants have received full payment for services rendered and
19 work performed on the project. Payment for retentions shall not be
20 made until all post-construction services are completed, including
21 but not limited to record drawings approval, operation and
22 maintenance manual review, and furnishing of required reports.

23 6. In the event the COUNTY reduces the scope of the
24 project, the CONSULTANT will be compensated on a pro rata basis for
25 actual work completed and accepted by the COUNTY in accordance with
26 the terms of this Agreement.

27 VI. COMPENSATION RECORDS

28 The CONSULTANT shall keep complete records showing the hours

1 and description of activities performed by each person who works on
2 the project and all associated costs or charges applicable to work
3 covered by the Basic Fee and approved Extra Services. The
4 CONSULTANT will be responsible for all sub-consultants keeping
5 similar records.

6 VII. RETENTION FROM EARNED COMPENSATION:

7 A. In addition to any amounts withheld under Article
8 III.*[phase const obsrv]*, COUNTY is entitled to and shall withhold a
9 ten percent (10%) retention from the earned compensation of the
10 CONSULTANT. Such retention from earned compensation may, at the
11 COUNTY'S option, be applied to all phases of the consultant
12 services to be provided under this agreement, including those
13 phases completed and Extra Services.

14 B. When the construction contract has been satisfactorily
15 performed to the eighty percent (80%) point of completion without
16 major pending claims, disputes or other matters in question between
17 the parties, the COUNTY may, at its discretion, reduce the
18 retention from ten percent (10%) to five percent (5%), and the
19 resulting surplus funds, less any current-phase or Extra Service
20 retention, will be paid by COUNTY to CONSULTANT at that time.

VIII. AUDITS, ACCOUNTING AND INSPECTIONS ACCESS:

A. The CONSULTANT shall at any time during regular business hours, and as often as the COUNTY may deem necessary, make available for examination by the COUNTY Auditor - Controller / Treasurer-Tax Collector, or their authorized representatives, all of CONSULTANT's records and data with respect to matters covered by this Agreement. The CONSULTANT shall permit COUNTY authorities to audit and inspect all invoices, materials, payrolls, records of personnel, conditions of employment, and other data relating to matters covered by this Agreement.

B. The CONSULTANT shall be subject to the examination and audit of the Auditor General for a period of three (3) years after final payment under this Agreement (Government Code Section 8546.7)

IX. ERRORS OR OMISSION CLAIMS AND DISPUTES

A. Definitions:

1. A "Consultant" is a duly licensed Architect or Engineer, or other provider of professional services, acting as a business entity (owner, partnership, corporation, joint venture or other business association) in accordance with the terms of an Agreement with the COUNTY.

2. A "Claim" is a demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of contract terms, payment of money, extension of time, change orders, or other relief with respect to the terms of the contract. The term "Claim" also includes other disputes and matters in question between the COUNTY and CONSULTANT arising out of or relating to the contract. Claims must be made by written notice. The provisions of Government Code section 901, et seq., shall apply

1 to every claim made to COUNTY. The responsibility to substantiate
2 claims shall rest with the party making the claim. The term
3 "Claim" also includes any allegation of an error or omission by the
4 CONSULTANT.

5 B. In the spirit of cooperation between the COUNTY and
6 CONSULTANT, the following procedures are established in the event
7 of any claim or dispute alleging a negligent error, act, or
8 omission, of the CONSULTANT.

9 1. Claims, disputes or other matters in question
10 between the parties, arising out of or relating to this Agreement,
11 shall not be subject to arbitration, but shall be subject to the
12 following procedures.

13 2. The project manager of COUNTY and CONSULTANT shall
14 meet and confer and attempt to reach agreement on any dispute,
15 including what damages have occurred, the measure of damages and
16 what proportion of damages, if any, shall be paid by either party.
17 The parties agree to consult and consider the use of mediation or
18 other form of dispute resolution prior to resorting to litigation.

19 3. If the COUNTY and CONSULTANT cannot reach agreement
20 under the immediately preceding paragraph IX.B.2., the disputed
21 issues may, upon concurrence by all parties, be submitted to a
22 panel of three (3) for a recommended resolution. The CONSULTANT
23 and the COUNTY shall each select one (1) member of the panel, and
24 the third member shall be selected by the other two panel members.
25 The discovery rights provided by California Code of Civil Procedure
26 for civil proceedings shall be available and enforceable to resolve
27 the disputed issues. Either party requesting this dispute
28 resolution process shall, when invoking the rights to this panel,

1 give to the other party a notice describing the claims, disputes
2 and other matters in question. Prior to 20 days before the initial
3 meeting of the panel, both parties shall submit all documents such
4 party intends to rely upon to resolve such dispute. If it is
5 determined by the panel that any party has relied on such
6 documentation, but has failed to previously submit such
7 documentation on a timely basis to the other party, the other party
8 shall be entitled to a 20-day continuance of such initial meeting
9 of the panel. The decision by the panel is not a condition
10 precedent to arbitration, mediation or litigation.

11 4. Upon receipt of the panel's recommended resolution
12 of the disputed issues, the COUNTY and the CONSULTANT shall again
13 meet and confer and attempt to reach agreement. If the parties
14 still are unable to reach agreement, each party shall have recourse
15 to all appropriate legal and equitable remedies.

16 C. The procedures to be followed in the resolution of claims
17 and disputes may be modified at any time by mutual agreement of the
18 parties hereto.

19 D. The CONSULTANT shall continue to perform its obligations
20 under this Agreement pending resolution of any dispute, and the
21 COUNTY shall continue to make payments of all undisputed amounts
22 due under this Agreement.

23 E. When a claim by either party has been made alleging the
24 CONSULTANT's negligent error, act, or omission, the COUNTY Project
25 Manager and the CONSULTANT shall meet and confer within twenty-one
26 (21) days after the written notice of the claim has been provided.
27
28

1 X. JOINDER OF PARTIES

2 The CONSULTANT, the CONSULTANT's consultants of any tier,
3 subcontractors of any tier, suppliers and construction lenders
4 shall all be bound by the dispute resolution provisions of this
5 Agreement, and immediately upon demand of COUNTY or CONSULTANT,
6 shall participate in and shall become parties to the dispute
7 resolution process, provided they have signed any document that
8 incorporates or refers to the dispute resolution provisions of this
9 Agreement. Failure of CONSULTANT, whether intended or inadvertent,
10 to ensure that such nonparties have signed such a document shall
11 inure only to CONSULTANT's detriment, if any there be. COUNTY
12 shall not suffer a detriment by CONSULTANT's action or inaction in
13 this regard. If such a party after due notice fails to appear at
14 and participate in the dispute resolution proceedings, the panel
15 established in accordance with the provisions of paragraph IX.B.3.
16 shall make a decision based on evidence introduced by the party or
17 parties who do participate.

18 XI. INDEPENDENT CONTRACTOR:

19 A. In performance of the work, duties, and obligations
20 assumed by CONSULTANT under this Agreement, it is mutually
21 understood and agreed that CONSULTANT, including any and all of
22 CONSULTANT's officers, agents and employees, will at all times be
23 acting and performing as an independent contractor, and shall act
24 in an independent capacity and not as an officer, agent, servant,
25 employee, joint venturer, partner or associate of the COUNTY.
26 Furthermore, COUNTY shall have no right to control or supervise or
27 direct the manner or method by which CONSULTANT shall perform its
28 work and function. However, COUNTY shall retain the right to

1 administer this Agreement so as to verify that CONSULTANT is
2 performing its obligations in accordance with the terms and
3 conditions thereof. CONSULTANT and COUNTY shall comply with all
4 applicable provisions of law and the rules and regulations, if any,
5 of governmental authorities having jurisdiction over matters the
6 subject thereof.

7 B. Because of its status as an independent contractor,
8 CONSULTANT shall have absolutely no right to employment rights and
9 benefits available to COUNTY employees. CONSULTANT shall be solely
10 liable and responsible for providing to, or on behalf of its
11 employees all legally-required employee benefits. In addition,
12 CONSULTANT shall be solely responsible and save COUNTY harmless
13 from all matters relating to payment of CONSULTANT's employees,
14 including compliance with Social Security, withholding, and all
15 other regulations governing such matters. It is acknowledged that
16 during the term of this Agreement CONSULTANT may be providing
17 services to others unrelated to the COUNTY or to this Agreement.

18 XII. PARTIES BOUND BY AGREEMENT:

19 This Agreement shall be binding upon the COUNTY, the
20 CONSULTANT, and their successors in interest, legal
21 representatives, executors, administrators, and assigns with
22 respect to all covenants as set forth herein.

23 XIII. REQUIRED APPROVALS:

24 It is understood that the CONSULTANT shall not assign, sublet,
25 subcontract, or transfer any of CONSULTANT's rights, duties, or
26 obligations under this Agreement, without the prior express,
27 written consent of the COUNTY. Such consent and approval may be
28 given only by the COUNTY Board of Supervisors.

1 XIV. COMPLIANCE WITH LAWS:

2 CONSULTANT shall comply with all applicable federal, state,
3 and local laws, ordinances, regulations, and Fresno County Charter
4 Provisions in effect at the time of CONSULTANT's performance of
5 the professional services to be provided hereunder.

6 XV. GOVERNING LAW:

7 A. Any controversy or claim arising out of or relating to
8 this Agreement which cannot be amicably settled without court
9 action shall be litigated either in a state court for Fresno
10 County, California, or in the U.S. District Court for the Eastern
11 District of California, located in Fresno County.

12 B. The rights and obligations of the parties and all
13 interpretations and performance of this Agreement shall be governed
14 in all respects by the laws of the State of California.

15 XVI. AMENDMENTS:

16 Any changes to this Agreement requested either by the COUNTY
17 or CONSULTANT may only be effected if mutually agreed upon in
18 writing by duly authorized representatives of the parties hereto.
19 This Agreement shall not be modified or amended, nor shall any
20 rights of a party hereto be waived, except by such a writing.

21 XVII. CONSULTANT'S LEGAL AUTHORITY:

22 [FOR CALIFORNIA CORPORATIONS:] Each individual executing
23 this Agreement on behalf of CONSULTANT hereby covenants, warrants,
24 and represents: (i) that he or she is duly authorized to execute
25 and deliver this Agreement on behalf of such corporation in
26 accordance with a duly adopted resolution of the corporation's
27 board of directors and in accordance with such corporation's
28 articles of incorporation or charter and bylaws; (ii) that this

1 Agreement is binding upon such corporation; and (iii) that
2 CONSULTANT is a duly organized and legally existing corporation in
3 good standing in the State of California.

4 [FOR CALIFORNIA PARTNERSHIPS:] Each individual executing this
5 Agreement on behalf of CONSULTANT hereby covenants, warrants, and
6 represents: (i) that he or she is duly authorized to execute and
7 deliver this Agreement on behalf of such partnership in accordance
8 with its Partnership Agreement; and (ii) that this Agreement is
9 binding upon such partnership; and (iii) that CONSULTANT is a duly
10 organized and legally existing partnership in the State of
11 California.

12 [FOR OUT OF STATE CORPORATIONS:] Each individual executing
13 this Agreement on behalf of CONSULTANT hereby covenants, warrants,
14 and represents: (i) that he or she is duly authorized to execute
15 and deliver this Agreement on behalf of such corporation in
16 accordance with a duly adopted resolution of the corporation's
17 board of directors and in accordance with such corporation's
18 articles of incorporation or charter and bylaws; (ii) that this
19 Agreement is binding upon such corporation; (iii) that CONSULTANT
20 is duly organized and legally existing corporation in good standing
21 in the State of _____, is registered with the California
22 Secretary of State to do business in the State of California as a
23 foreign corporation, and; (iv) that each individual executing or
24 attesting this Agreement on behalf of CONSULTANT hereby covenants,
25 warrants, and represents:

26 a. That this Agreement is binding upon such
27 corporation; and

28 b. That CONSULTANT shall deliver to COUNTY all

1 necessary certificates and assurances indicating CONSULTANT's right
2 to conduct business in the State of California including but not
3 limited to certificates filed with the California Secretary of
4 State to conduct business in California and the name and
5 California-based address of CONSULTANT's agent for receipt of
6 service of process.

7 [FOR SOLE PROPRIETOR:] Each individual executing this
8 Agreement on behalf of CONSULTANT, a sole proprietor, hereby
9 covenants, warrants, and represents: (i) that he or she is duly
10 authorized to execute and deliver this Agreement on behalf of such
11 sole proprietor; and (ii) that this Agreement is binding upon such
12 proprietor.

13 XVIII. HOLD HARMLESS:

14 A. CONSULTANT shall hold harmless and indemnify COUNTY, its
15 officers, agents, and employees, against the payment of any and all
16 costs and expenses (including reasonable attorney fees and court
17 costs), damages, claims, suits, losses, and liability for bodily
18 and personal injury to or death of any person or for loss of any
19 property resulting from or arising out of any negligent or wrongful
20 acts, errors or omissions of CONSULTANT, its officers, agents, and
21 employees, in performing or failing to perform any work, services,
22 or functions under this Agreement.

23 B. COUNTY and CONSULTANT hereby declare their mutual intent
24 to cooperate in the defense of any claim, suit, or other action
25 alleging liability, arising from the negligent performance or
26 failure to perform of any COUNTY contractor or subcontractor in
27 connection with the project. Such cooperation may include an
28 agreement to prepare and present a cooperative defense after

1 consultation with CONSULTANT's professional liability insurance
2 carrier.

3 XIX. LIABILITY INSURANCE:

4 A. Prior to commencing the duties under the Agreement with
5 the COUNTY, the CONSULTANT shall furnish the COUNTY, at no
6 additional cost to the COUNTY, certificates for the following
7 insurance policies which shall be kept in force at all times during
8 the term of the Agreement (i.e., until the Agreement is terminated
9 or it expires), and for such additional time as may be specified
10 herein with respect to a particular type of policy.

11 1. Commercial General Liability Insurance or
12 Comprehensive General Liability Insurance, naming the COUNTY as an
13 additional insured, with limits of not less than \$1,000,000 per
14 occurrence for the master plan phase and 5,000,000 for the first
15 phase of construction.

16 2. Comprehensive Automobile Liability Insurance with
17 limits for bodily injury of not less than \$250,000 per person,
18 \$500,000 per accident and for property damages of not less than
19 \$50,000, or such coverage with a combined single limit of \$500,000.

20 3. Worker's Compensation insurance policy as required
21 by the California Labor Code.

22 4. Professional Liability Insurance:

23 a. In the minimum amount of at least \$250,000
24 coverage per claim, with an annual aggregate of at least 1,000,000
25 for master plan phase and \$5,000,000 for the first phase of
26 construction, with a deductible not to exceed \$50,000. A
27 deductible greater than \$50,000 will be accepted upon the COUNTY
28 receiving satisfactory, certified information of the CONSULTANT's

1 ability to support such a deductible. The financial ability to
2 support the difference between the \$50,000 and greater deductible
3 amount requested by CONSULTANT shall be guaranteed by any of the
4 following:

5 1. Cash deposit with a trustee bank.

6 2. Irrevocable letter of credit issued by a
7 bank for a period sufficient for the COUNTY to determine if there
8 is a claim to be made against the CONSULTANT, e.g. six months after
9 termination of Agreement.

10 3. Withholding payment under terms of the
11 Agreement for the same period as under Article VII. herein.

12 b. CONSULTANT and subconsultants shall make full
13 disclosure, in writing to the COUNTY, of all pending and open
14 claims and disputes during the course of this Agreement that affect
15 the specified aggregate limits of the Professional Liability
16 Insurance policy.

17 c. Professional Liability Insurance shall extend
18 for a minimum of two (2) years past the date of final payment to
19 CONSULTANT, including the resolution of all claims, disputes, and
20 matters in question regarding the project.

21 d. In the event that CONSULTANT voluntarily
22 changes, or involuntarily changes, due to circumstances beyond its
23 control, its Professional Liability Insurance policy carrier during
24 the period such coverage is required to be in force (as specified
25 in the immediately preceding subparagraph XX.A.4.c), such new
26 policy shall include prior acts coverage retroactive, at least, to
27 the date of execution of this Agreement. CONSULTANT may, at its
28 option and expense, purchase supplemental or "tail" coverage from

1 the former policy carrier, negotiate a retroactive reporting date
2 with the new policy carrier for claims incurred but not reported as
3 of the date of change in policy carrier, and shall in any event
4 maintain Professional Liability Insurance in a manner that provides
5 continuous coverage to the COUNTY throughout the term of this
6 Agreement, and for a period of two (2) years past the issuance of
7 final payment to the CONSULTANT.

8 e. The CONSULTANT may, at its option and expense
9 and upon approval of the COUNTY, provide specific project
10 professional liability insurance for itself and all sub-consultants
11 for this project, extending from the beginning of project Phase 1
12 to two (2) years past the issuance of final payment hereunder to
13 the CONSULTANT. This time period specifically includes that time
14 required for the resolution of all claims and disputes.

15 f. The CONSULTANT shall provide a vicarious
16 interest endorsement to its Professional Liability Insurance
17 policy, indemnifying the COUNTY for liabilities, damages and/or
18 judgments, and reasonable attorney's fees and related costs (a) to
19 the proportionate extent caused by the negligent errors, acts or
20 omissions of CONSULTANT and (b) in excess of the deductible
21 obligation and subject to all of the terms, conditions and
22 exclusions of the Professional Liability Insurance policy.

23 B. All policies shall be with admitted insurers licensed to
24 do business in the State of California. CONSULTANT shall give
25 COUNTY at least thirty (30) days written advance notice of any
26 expiration, cancellation or reduction in the coverage of any of the
27 aforesaid policies.

28 C. The COUNTY, its officers, agents and employees,

1 individually and collectively, shall be named as an additional
2 insured under the policy for Commercial General Liability Insurance
3 or Comprehensive General Liability Insurance, but only insofar as
4 the operations under this Agreement are concerned. Such coverage
5 of COUNTY as additional insured shall apply as primary insurance
6 and any other insurance, or self-insurance, maintained by the
7 COUNTY, its officers, agents, and employees, shall be excess only
8 and not contributing with insurance provided under the CONSULTANT's
9 policies herein.

10 XXI. OWNERSHIP OF DOCUMENTS:

11 A. CONSULTANT understands and agrees that COUNTY shall
12 retain full ownership rights of the drawings and the work-product
13 of CONSULTANT for the project, to the fullest extent permitted by
14 law. In this regard, CONSULTANT acknowledges and agrees that
15 CONSULTANT's services are on behalf of COUNTY and are "works made
16 for hire," as that term is defined in copyright law, by COUNTY;
17 that the drawings and work-product to be prepared by CONSULTANT are
18 for the sole and exclusive use of COUNTY, and shall be the sole
19 property of COUNTY and its assigns, and the COUNTY and its assigns
20 shall be the sole owner of all patents, copyrights, trademarks,
21 trade secrets and other contractual and intangible rights of any
22 kind or nature in connection therewith; that all the contractual or
23 intangible rights of any kind of nature, title, and interest in and
24 to the drawings and work-product will be transferred to COUNTY by
25 CONSULTANT, and CONSULTANT will assist COUNTY to obtain and enforce
26 patents, copyrights, trademarks, trade secrets, and other
27 contractual and intangible rights of any kind or nature relating to
28 said drawings and work-product; that COUNTY shall be and become the

1 owner of such drawings and work product, free and clear of any
2 claim by CONSULTANT or anyone claiming any right through
3 CONSULTANT. CONSULTANT further acknowledges and agrees that
4 COUNTY's ownership rights in such drawings and work product shall
5 apply regardless of whether such drawings or work product, or any
6 copies thereof, are in the possession of CONSULTANT, or any other
7 person, firm, corporation, or entity. For the purpose of this
8 Agreement the terms "drawings and work-product" shall mean all
9 reports and study findings commissioned to develop the design of
10 the project, drawings and schematic or preliminary design documents
11 of the project, certified reproducibles of the original final
12 construction contract drawings of the project, specifications of
13 the project, the approved opinion of probable construction cost of
14 the project, record drawings of the project, as-built plans of the
15 project, and discoveries, developments, designs, improvements,
16 inventions, formulas, processes, techniques, or specific know-how
17 and data generated or conceived or reduced to practice or learning
18 by CONSULTANT, either alone or jointly with others, that result
19 from the tasks assigned to CONSULTANT by COUNTY under this
20 Agreement.

21 B. If the Agreement is terminated during or at the
22 completion of the preliminary design phase under Article III, a
23 reproducible copy of the preliminary design documents shall be
24 submitted by CONSULTANT to the COUNTY, which may use them to
25 complete the project in future phases.

26 C. If the project is terminated at the completion of the
27 construction document phase of the project, certified reproducibles
28 on .003" mylars of the original final construction contract

1 drawings, specifications, and approved opinion of probable
2 construction cost shall be submitted by CONSULTANT to COUNTY.

3 D. Documents, including drawings and specifications,
4 prepared by CONSULTANT for any project pursuant to this Agreement
5 are not intended or represented to be suitable for reuse by COUNTY
6 or others on extensions of the services provided for this project
7 or any other project. Any use of completed documents for other
8 projects and/or any use of uncompleted documents will be at
9 COUNTY's sole risk and without liability or legal exposure to
10 CONSULTANT.

11 E. COUNTY has requested that certain machine-readable
12 information and data ("CAD data") be provided by CONSULTANT for the
13 project under this Agreement. Such CAD data is more specifically
14 described in Article III. CONSULTANT shall not be liable for
15 claims, liabilities or losses arising out of, or connected with (1)
16 the modification or misuse by COUNTY, or anyone authorized by
17 COUNTY, of such CAD data; or (2) decline of accuracy or readability
18 of CADD data due to inappropriate storage conditions or duration;
19 or (3) any use by COUNTY, or anyone authorized by COUNTY, of such
20 CAD data for additions to this project or for the completion of
21 this project by others, or for other projects.

22 XXI. TIME OF COMPLETION:

23 A. The parties hereto agree to the Production Schedule shown
24 in Exhibit ____, attached hereto and incorporated herein.

25 1. Currently, the anticipated advertising and award
26 dates for the master plan contract are November 6, 2000 and
27 February 9, 2001 respectively.

28 2. Based on the current estimated construction period,

1 it is anticipated construction observation services shall be
2 performed by CONSULTANT from _____ to _____.

3 3. Based on the current estimated project schedule, it
4 is anticipated post-construction services shall be performed by
5 CONSULTANT from _____ to _____.

6 B. CONSULTANT shall not be held responsible for delays
7 caused by COUNTY review, or by similar reasons beyond CONSULTANT's
8 control.

9 C. CONSULTANT shall not stop any of his/her Basic Services
10 or Extra Services work, unless it can be shown the project work
11 cannot proceed while a claim or request for Extra Services is being
12 evaluated.

13 D. CONSULTANT shall complete all services required under
14 this Agreement in accordance with Exhibit 2 and this Agreement
15 shall expire on _____ unless it is extended in writing by
16 the Director of the Department of Public Works or his/her designee,
17 or it is terminated earlier in accordance with the provisions of
18 Article

19 E. Time is of the essence in the completion of the services
20 covered by this Agreement. Failure of the CONSULTANT to meet any
21 specific date in the above-referenced schedule, once such failure
22 exceeds, fourteen (14) calendar days past the specified completion
23 date (unless the delay is attributable to the COUNTY or State), is
24 sufficient cause to immediately terminate this Agreement at the
25 option of the COUNTY in accordance with Article XXIII.

26 XXII. TERMINATION OF AGREEMENT:

27 A. This Agreement may be terminated without cause at any
28 time by the COUNTY upon thirty (30) calendar days written notice.

1 If the COUNTY terminates this Agreement, the CONSULTANT shall be
2 compensated for services satisfactorily completed to the date of
3 termination based upon the compensation rates and subject to the
4 maximum amounts payable agreed to in Article V, together with such
5 additional services satisfactorily performed after termination
6 which are expressly authorized by the COUNTY Representative in
7 order to conclude the work performed to date of termination.

8 B. If the CONSULTANT terminates the Agreement for reasons
9 other than material breach by the COUNTY, the CONSULTANT shall
10 reimburse the COUNTY, up to a maximum of \$10,000 for the actual
11 expense of issuing a Request For Proposal (RFP), engaging a new
12 CONSULTANT, and the new CONSULTANT's cost in becoming familiar with
13 the previous CONSULTANT's design.

14 C. The COUNTY may immediately suspend or terminate this
15 Agreement in whole or in part, where in the determination of the
16 COUNTY there is:

- 17 1. An illegal or improper use of funds;
- 18 2. A failure to comply with any term of this Agreement;
- 19 3. A substantially incorrect or incomplete report
20 submitted to the COUNTY;
- 21 4. Improperly performed service.

22 D. In no event shall any payment by the COUNTY constitute a
23 waiver by the COUNTY of any breach of this Agreement or any default
24 which may then exist on the part of the CONSULTANT. Neither shall
25 such payment impair or prejudice any remedy available to the COUNTY
26 with respect to the breach or default. The COUNTY shall have the
27 right to demand of the CONSULTANT the repayment to the COUNTY of
28 any funds disbursed to the CONSULTANT under this Agreement, which,

1 in the judgment of the COUNTY and as determined in accordance with
2 the procedures of Article IX ("Errors or Omissions Claims and
3 Disputes"), were not expended in accordance with the terms of this
4 Agreement. The CONSULTANT shall promptly refund any such funds
5 upon demand.

6 E. The terms of this Agreement, and the services to be
7 provided thereunder, are contingent on the approval of funds by the
8 appropriating government agency. Should sufficient funds not be
9 allocated, the services provided may be modified, or this Agreement
10 terminated at any time by giving the CONSULTANT thirty (30) days
11 advance written notice.

12 XXIII. CONFLICT OF INTEREST:

13 The CONSULTANT shall comply with the provisions of the Fresno
14 County Department of Public Works Conflict of Interest Code,
15 attached hereto as Exhibit ____ and incorporated herein. Such
16 compliance shall include the filing of annual statements pursuant
17 to the regulations of the State Fair Political Practices
18 Commission.

19 XXIV. ENTIRE AGREEMENT:

20 This Agreement constitutes the entire agreement between the
21 COUNTY and the CONSULTANT with respect to the subject matter hereof
22 and supersedes all previous negotiations, proposals, commitments,
23 writings, advertisements, publications, and understandings of any
24 nature whatsoever unless expressly included in this Agreement.

25 XXV. SEVERABILITY:

26 Should any provision herein be found or deemed to be invalid,
27 this Agreement shall be construed as not containing such provision,
28 and all other provisions which are otherwise lawful shall remain in

1 full force and effect, and to this end the provisions of this
2 Agreement are hereby declared to be severable.

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